

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE EXPORT-IMPORT BANK OF :
THE REPUBLIC OF CHINA, : 97 CIV 3090 (LAK)
: :
: Judgment Creditor,
-against- : :
: : **JUDGMENT CREDITOR'S**
REPUBLICUE DU NIGER, : **MOTION TO COMPEL**
: **AND FOR SANCTIONS**
: :
: Judgment Debtor.
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Pursuant to Fed. R. Civ. P. 37, Judgment Creditor The Export-Import Bank of the Republic of China (“Ex-Im Bank”), hereby moves this Court for an order: (a) compelling Judgment Debtor République du Niger (“Niger”) within 10 days of the Court’s order to answer interrogatories and an information subpoena, and respond to document requests served by Ex-Im Bank, or be held in contempt; (b) granting sanctions against Niger; and (c) awarding Ex-Im Bank its fees, expenses, and costs, including reasonable attorneys’ fees, incurred in bringing this motion. In support of its motion, Ex-Im Bank relies on and incorporates the Declaration of Paul E. Summit (the “Summit Decl.”) and the exhibits attached thereto, and states as follows:

1. On October 23, 1998, this Court entered a judgment against Niger in favor of Ex-Im Bank on two loan agreements payable in the amounts of \$60,706,710.06 and \$11,959,293.41, plus pre-judgment interest and post-judgment interest (the “Judgment”). Summit Decl., Ex. A.
2. In 1999 and 2012, Ex-Im Bank served discovery demands on Niger, which Niger ignored.

3. On June 11, 2014, Ex-Im Bank served Plaintiff's Second Set of Post-Judgment Interrogatories (Summit Decl., Ex. B) and Plaintiff's Second Set of Post-Judgment Requests for Production of Documents (Summit Decl., Ex. C). On June 23, 2014, Ex-Im Bank served an Information Subpoena (collectively, the "Discovery Requests"). Summit Decl., Ex. D. Service was completed as set forth in the Affidavit of Service. Summit Decl. Ex. E.

4. Counsel for Ex-Im Bank has met twice (on August 28, 2014 and September 17, 2014) with government representatives of Niger to discuss collection on the Judgment, and each time has requested responses to the Discovery Requests.

5. On September 30, 2014, counsel for Ex-Im Bank sent a letter to Niger stating that Ex-Im Bank is prepared to have a final meet and confer by telephone, and requesting responses from Niger by October 10, 2014; otherwise, Ex-Im Bank would file a motion to compel and for sanctions. Summit Decl., Ex. F.

6. To date, Niger has failed and/or refused to serve any responses or objections to the Discovery Requests, and has failed to pay to Ex-Im Bank any amount of the Judgment.

7. Because there is no justification for Niger's failure to respond to the Discovery Requests, and because of the lengthy history of the action, Ex-Im Bank seeks an order compelling Niger's responses, granting sanctions against Niger, and awarding Ex-Im Bank its reasonable expenses and attorneys' fees incurred in making this motion from Niger pursuant to Fed. R. Civ. P. 37(a)(5)(A).

WHEREFORE, Ex-Im Bank respectfully moves this Court to enter an order:

(a) compelling Niger to answer the interrogatories and information subpoena propounded by Ex-Im Bank, and produce documents responsive to Ex-Im Bank's document demand within 10 days of the Court's order, or be held in contempt;

- (b) granting sanctions against Niger;
- (c) awarding Ex-Im Bank its reasonable expenses and attorneys' fees incurred in bringing this motion; and
- (d) granting Ex-Im Bank such other and further relief as this Court deems just and proper.

Dated: New York, New York
January 29, 2015

SULLIVAN & WORCESTER LLP

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